

MODEL REGULATIONS ON  
PUBLIC INFORMATION ACT

TITLE \_\_\_\_

DEPARTMENT OF \_\_\_\_\_

SUBTITLE \_\_\_\_, GENERAL REGULATIONS

**Chapter 01 Public Information Act Requests**

Authority: [Department's authority to adopt regulations]; General Provisions Article, §§ 4-101 to 4-601, Annotated Code of Maryland

**.01 Scope.**

This chapter sets out procedures under the Public Information Act for filing and processing requests to the Department of \_\_\_\_\_ for the inspection and copying of public records of the Department.

**.02 Policy.**

It is the policy of the Department to facilitate access to the public records of the Department, when access is allowed by law, by minimizing costs and time delays to applicants.

**.03 Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Act" means the Public Information Act, General Provisions Article, §§ 4-101 to 4-601, Annotated Code of Maryland.

(2) "Applicant" means a person or governmental unit that asks to inspect a public record.

(3) "Custodian" means:

(a) the official custodian; or

(b) any other authorized individual who has physical custody and control of a public record.

(4) "Department" means the Department of \_\_\_\_\_.

(5) "Official custodian" means an officer or employee of the State or of a political subdivision who is responsible for keeping a public record, whether or not the officer or employee has physical custody and control of the public record.

(6) (a) “Public record” means the original or any copy of any documentary material that:

(i) is made by a unit or an instrumentality of the State or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business; and

(ii) is in any form, including:

1. a card;
2. a computerized record;
3. correspondence;
4. a drawing;
5. film or microfilm;
6. a form;
7. a map;
8. a photograph or photostat;
9. a recording; or
10. a tape.

(b) “Public record” includes a document that lists the salary of an employee of a unit or an instrumentality of the State or of a political subdivision.

(c) “Public record” does not include a digital photographic image or signature of an individual, or the actual stored data of the image or signature, recorded by the Motor Vehicle Administration.

(7) “Secretary” means the Secretary of \_\_\_\_\_.

(8) “Working day” means a day other than Saturday, Sunday, or a State holiday.

#### **.04 Secretary as Official Custodian.**

Unless otherwise provided by law, the Secretary is the official custodian of the public records of the Department.

#### **.05 Who May Request Public Records.**

Any person may request to inspect or copy public records of the Department.

#### **.06 Necessity for Written Request.**

A. Inspection.

(1) Except as otherwise provided in this chapter, the custodian shall make public records of the Department available for inspection by an applicant without demanding a written request.

(2) The custodian shall require a written request if the custodian reasonably believes that:

(a) The Act or any other law may prevent the disclosure of the public record to the applicant; or

(b) A written request will materially assist the Department in responding.

**B. Copies.**

If the applicant requests one or more copies of any public record of the Department, the custodian may require a written request.

**.07 Contents of Written Request.**

A written request shall:

A. Contain the applicant's name and address;

B. Be signed by the applicant; and

C. Reasonably identify, by brief description, the public record sought.

**.08 Addressee.**

A request to inspect or copy a public record of the Department shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Secretary.

**.09 Response to Request.**

A. If the custodian decides to grant a request for inspection, the custodian shall produce the public record for inspection:

(1) Immediately; or

(2) Within a reasonable time period, not to exceed 30 days after the date of the request, if that period is needed to retrieve the public record and conduct any necessary review.

B. (1) If the custodian decides to deny a request for inspection:

(a) The custodian shall do so within 30 days after the request; and

(b) Immediately notify the applicant of the denial.

(2) If a request is denied, the custodian shall provide the applicant, at the time of the denial or within 10 working days, a written statement that gives:

(a) The reasons for the denial;

(b) The legal authority for the denial; and

(c) Notice of the remedies available for review of the denial.

C. If a requested public record is not in the custody or control of the person to whom application is made, that person shall, within 10 working days after receipt of the request, notify the applicant:

(1) That the person does not have custody or control of the requested public record; and

(2) If the person knows:

- (a) The name of the custodian of the public record; and
- (b) The location or possible location of the public record.

D. With the consent of the applicant, any time limit imposed by paragraphs A through C of this regulation may be extended for an additional period of up to 30 days.

**.10 Notice to and Consideration of Views of Person Potentially Affected By Disclosure.**

A. Unless prohibited by law, the custodian may provide notice of a request for inspection or copying of any public record of the Department to any person who, in the judgment of the custodian, could be adversely affected by disclosure of that public record.

B. The custodian may consider the views of the potentially affected person before deciding whether to disclose the public record to an applicant.

**.11 Public Record Temporarily Unavailable.**

If a requested public record is in the custody and control of the Department but is not immediately available for inspection or copying, the custodian shall promptly:

- A. Notify the applicant that the public record is not immediately available; and
- B. Schedule a date within a reasonable time for inspection or copying.

**.12 Public Record Destroyed or Lost.**

If the custodian knows that a requested public record of the Department has been destroyed or lost, the custodian shall promptly:

- A. Notify the applicant that the public record is not available; and
- B. Explain the reasons why the public record cannot be produced.

**.13 Review of Denial.**

A. If the custodian denies a request to inspect or copy a public record of the Department, the applicant may, within 30 days after receipt of the notice of denial, request an administrative hearing.

B. If the applicant requests a hearing:

(1) The hearing shall be governed by Title 10, Subtitle 2 of the State Government Article; and

(2) The Secretary shall issue the final decision of the Department unless the Secretary delegates final decision authority.

C. If the hearing results in a total or partial denial of the request, the applicant may file an appropriate action in the circuit court under § 4-362 of the Act.

D. If the applicant does not request an administrative hearing, the applicant may file an action for judicial enforcement under § 4-362 of the Act without exhausting that administrative remedy.

**.14 Disclosure Against Public Interest.****A. Denial Pending Court Order.**

(1) If, in the opinion of the Secretary, disclosure of a public record of the Department otherwise subject to disclosure under the Act would do substantial injury to the public interest, the Secretary may temporarily deny the request to obtain a court order allowing nondisclosure.

(2) The temporary denial shall be in writing.

**B. Circuit Court Review.**

(1) Within 10 working days after the denial, the Secretary shall apply to the appropriate circuit court for an order permitting continued denial or restriction of access.

(2) Notice of the Secretary's complaint shall be served on the applicant in the manner provided for service of process by the Maryland Rules of Civil Procedure.

**.15 Fees.**

A. The fee schedule for copying and certifying copies of public records of the Department is as follows:

**(1) Copies.**

(a) The fee for each copy made by a photocopying or scanning machine within the Department is 25 cents per page.

(b) The fee for each copy made otherwise shall be based on the actual cost of reproduction.

(2) Certification of Copies. If a person requests that a copy of a public record be certified as a true copy, an additional fee of \$1 per page (or if appropriate, per item) shall be charged.

(3) Minimum Fee. No charge will be made if the total fee is \$10 or less.

B. Notwithstanding paragraph A of this regulation, if the fee for copies or certified copies of any public record of the Department is specifically set by a law other than the Act or this regulation, the custodian shall charge the prescribed fee.

C. If the custodian cannot copy a public record within the Department, the custodian shall make arrangements for the prompt reproduction of the record at public or private facilities outside the Department. The custodian shall:

(1) Collect from the applicant a fee to cover the actual cost of reproduction; or

(2) Direct the applicant to pay the cost of reproduction directly to the facility making the copy.

D. Before copying a public record of the Department, the custodian shall estimate the cost of reproduction and either:

(1) Obtain the agreement of the applicant to pay the cost; or

(2) Demand prepayment of the cost.

E. Except as provided in paragraph of this regulation, the custodian may charge a reasonable fee for time that an official or employee of the Department spends:

- (1) To search for requested public records; or
- (2) To prepare public records for inspection and copying.

F. The custodian may not charge a search or preparation fee for the first 2 hours that an official or employee of the Department spends to respond to a request for public records.

G. Waiver or Reduction of Fee.

(1) The official custodian may waive or reduce any fee set under this regulation if:

- (a) The applicant requests a waiver; and
- (b) The custodian determines that the waiver or reduction is in the public

interest.

(2) The official custodian shall consider, among other relevant factors, the ability of the applicant to pay the fee.

H. If the applicant requests that copies of a public record be mailed or delivered to the applicant or to a third party, the custodian may charge the applicant for the cost of postage or delivery.

#### **.16 Time and Place of Inspection.**

A. An applicant may inspect any public record of the Department that the applicant is entitled to inspect during the normal working hours of the Department.

B. The inspection shall occur where the public record is located, unless the custodian, after taking into account the applicant's expressed wish, determines that another place is more suitable and convenient.

**Chapter 02    Correction or Amendment of Public Records**

Authority:[Department's authority to adopt regulations]; General Provisions Article § 4-502, Annotated Code of Maryland

**.01    Scope.**

This chapter sets out procedures under which a person in interest may request the correction or amendment of public records of the Department of \_\_\_\_\_.

**.02    Definitions.**

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Custodian" means:

(a) the official custodian; or

(b) any other authorized individual who has physical custody and control of a public record.

(2) "Department" means the Department of \_\_\_\_\_.

(3) "Person in interest" means:

(a) a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit;

(b) if the person has a legal disability, the parent or legal representative of the person; or

(c) as to requests for correction of certificates of death under § 5-310(d)(2) of the Health-General Article, the spouse, adult child, parent, adult sibling, grandparent, or guardian of the person of the deceased at the time of the deceased's death.

(4) "Public record"

(a) "Public record" means the original or any copy of any documentary material that:

(i) is made by a unit or an instrumentality of the State or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business; and

(ii) is in any form, including:

1. a card;

2. a computerized record;

3. correspondence;

4. a drawing;

5. film or microfilm;

6. a form;

7. a map;

- 8. a photograph or photostat;
- 9. a recording; or
- 10. a tape.

(b) "Public record" includes a document that lists the salary of an employee of a unit or an instrumentality of the State or of a political subdivision.

(c) "Public record" does not include a digital photographic image or signature of an individual, or the actual stored data of the image or signature, recorded by the Motor Vehicle Administration.

(5) "Secretary" means the Secretary of \_\_\_\_\_.

### **.03 Who May Request.**

A person in interest may request that the Department correct or amend any public record that:

- A. The Department keeps; and
- B. The person in interest is authorized to inspect.

### **.04 Contents of Request.**

A. A person in interest shall make a request to correct or amend a public record in writing [on a form provided by the Department].

B. The request shall:

- (1) Identify the public record to be corrected or amended;
- (2) State the precise correction or amendment requested;
- (3) State the reason for the correction or amendment; and
- (4) Include a statement that, to the best of the requester's belief, the public record is inaccurate or incomplete.

### **.05 Addressee.**

A request to correct or amend a public record shall be addressed to the custodian of the record. If the custodian is unknown, the request may be addressed to the Secretary.

### **.06 Return of Nonconforming Request.**

A. The Department shall accept a request to correct or amend a public record when it is received if it reasonably complies with Regulations .04 and .05 of this chapter.

B. If the request does not reasonably comply with Regulations .04 and .05 of this chapter, the Department shall return the request to the requester with:

- (1) An explanation of the reason for the return; and
- (2) A statement that, on receipt of a request that reasonably complies with Regulations .04 and .05 of this chapter, the request will be accepted.



**.07 Response to Request.**

Within 30 days after the Department receives a request for correction or amendment that reasonably complies with Regulations .04 and .05 of this chapter, the custodian shall:

A. Make the requested correction or amendment, and inform the requester in writing of the action; or

B. Inform the requester in writing that the Department will not:

(1) Make the requested correction or amendment, and the reason for the refusal; or

(2) Act on the request because:

(a) The requester is not a “person in interest”;

(b) The requestor is not authorized to inspect the record; or

(c) Of any other reason authorized by law.

**.08 Refusal of Request.**

If the Department refuses to make a requested correction or amendment, a person in interest may file with the Department a concise statement of the reasons for:

A. The requested correction or amendment; and

B. The person’s disagreement with the refusal of the Department to make the correction or amendment.

**.09 Requirements for Statement of Disagreement.**

The statement submitted under Regulation .08 shall:

A. Be on pages no larger than 8½ x 11 inches in size; and

B. Consist of no more than 5 pages.

**.10 Providing Statement of Disagreement.**

If a person in interest files a statement of disagreement concerning a public record under Regulations .08 and .09 of this chapter, the Department shall provide a copy of the statement whenever the Department discloses the public record to a third party.

**.11 Administrative Review.**

A. A person may request administrative review under this regulation if the Department:

(1) Has refused the person’s request to correct or amend a public record under Regulation .07 of this chapter;

(2) Has rejected the person’s statement of disagreement under Regulation .08 of this chapter; or

(3) Has not provided a statement of disagreement to a third party under Regulation .10 of this chapter.

B. A request for review shall be filed with the Secretary within 30 days after the requester is advised of the Department's action.

C. The review proceedings shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and the administrative hearing regulations of the Department.